

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 01 2003  
1617  
TECH CENTER 1600/2900

In re Patent Application of

Atty Dkt. 2661-22  
C# M#

CRAPO et al

Group Art Unit: 1617

Serial No. 10/051,367

Examiner: Wang, S.

Filed: January 22, 2002

Date: September 29, 2003

Title: CANCER THERAPY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**SUBMISSION**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

Total effective claims after amendment 0 minus highest number  
previously paid for 20 (at least 20) = 0 x \$ 18.00 \$ 0.00

Independent claims after amendment 0 minus highest number  
previously paid for 3 (at least 3) = 0 x \$ 84.00 \$ 0.00

If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s) (\$110.00/1 month; \$410.00/2 months; \$930.00/3 months) \$ 0.00

Terminal disclaimer enclosed, add \$ 110.00 \$ 0.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$750.00) \$ 0.00

☐ Please enter the previously unentered , filed

☐ Submission attached

**Subtotal \$ 0.00**

If "small entity," then enter half (1/2) of subtotal and subtract -\$ 0.00

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00) \$ 0.00

Assignment Recording Fee (\$40.00) \$ 0.00

Other: 0.00

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
MJW:tat

NIXON & VANDERHYE P.C.  
By Atty: Mary J. Wilson, Reg. No. 32,955

Signature: Mary J. Wilson



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Re PATENT APPLICATION OF

CRAPO et al

Serial No.: 10/051,367

Filed: January 22, 2002

For: CANCER THERAPY

Confirmation No. 6992

Atty. Ref.: 2661-22

Group: 1617

Examiner: Wang, S.

TECH CENTER 1600/2900

OCT 01 2003

RECEIVED

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AKO  
10/9/03

\* \* \* \* \*

September 29, 2003

SUBMISSION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith are 3 Verified Statements  
(Declarations) Claiming Small Entity Status relating to the  
above-identified application.

Respectfully submitted,

**NIXON & VANDERHYE, P.C.**

By Mary J. Wilson  
Mary J. Wilson  
Reg. No. 32,955

MJW:tat

1100 North Glebe Road  
8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
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Applicant or Patentee: **CRAPO t al**Serial or Patent No.: **10/051,367**Filed or Issued: **January 22, 2002**

For:

**CANCER THERAPY**

OMB NO. 0651-0011 (12/3/86)

Attorney's

Dkt. No.: **2661-22****VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.27(a)(3)) -  
NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION **NATIONAL JEWISH MEDICAL AND RESEARCH CENTER**ADDRESS OF ORGANIZATION **1400 Jackson Street, Denver, Colorado 80206****TYPE OF NONPROFIT ORGANIZATION**

- ☐ University or other institution of higher education
- ☐ Tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3))
- ☒ Nonprofit scientific or educational under statute of state of The United States of America  
(Name of state **Colorado**)  
(Citation of statute **Colo. Rev. Stat. 7-20-102(10) (1986)**)
- ☐ Would qualify as tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3)) if located in the United States
- ☐ Would qualify as nonprofit scientific or educational under statute of state of The United States of America if located in The United States of America  
(Name of state \_\_\_\_\_)  
(Citation of statute \_\_\_\_\_)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.27(a)(3) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

- ☐ the specification filed herewith with title as listed above.
- ☒ application identified above.
- ☐ the patent identified above.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention. If the rights held by the nonprofit organization are not exclusive, each person, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person who could not qualify as a person under 37 CFR 1.27(a)(1), or by any concern which would not qualify as a small business concern under 37 CFR 1.27(a)(2), or a nonprofit organization under 37 CFR 1.27(a)(3).

Name **DUKE UNIVERSITY**Address **Office of Science and Technology, Box 90083, Durham, North Carolina 27708-0083**☐ Person ☐ Small Business Concern ☒ Nonprofit OrganizationName **AEOLUS PHARMACEUTICALS, INC.**Address **P.O. Box 14287, Research Triangle Park, NC 27709**☐ Person ☒ Small Business Concern ☐ Nonprofit Organization

\*Separate verified statement is requested from each person, concern or organization named immediately above having rights to the invention, averring to his/her/its status as a small entity. (37 CFR 1.27)

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.27(g)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INDIVIDUAL SIGNING **James D. Crapo, MD**TITLE IN ORGANIZATION **EVP, Academic Affairs**ADDRESS OF INDIVIDUAL SIGNING **1400 Jackson St., Denver CO 80206**

SIGNATURE

DATE

**8/25/03**



Applicant or Patentee: **CRAPO et al**Serial or Patent No.: **10/051,367**Filed or Issued: **January 22, 2002**

For:

**CANCER THERAPY**

OMB NO. 0651-0011 (12/3/186)

Attorney's

Dkt. No.: **2661-22****VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.27(a)(3)) -  
NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION **DUKE UNIVERSITY**ADDRESS OF ORGANIZATION **Office of Science and Technology, Box 90083, Durham, North Carolina  
27708-0083****TYPE OF NONPROFIT ORGANIZATION**

- ☒ University or other institution of higher education  
☐ Tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3))  
☐ Nonprofit scientific or educational under statute of state of The United States of America  
(Name of state \_\_\_\_\_)  
(Citation of statute \_\_\_\_\_)  
☐ Would qualify as tax exempt under Internal Revenue Service Code (26 U.S.C. 501(a) and 501(c)(3)) if located in the  
United States  
☐ Would qualify as nonprofit scientific or educational under statute of state of The United States of America if located in  
The United States of America  
(Name of state \_\_\_\_\_)  
(Citation of statute \_\_\_\_\_)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.27(a)(3) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in:

- ☐ the specification filed herewith with title as listed above.  
☒ application identified above.  
☐ the patent identified above.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention. If the rights held by the nonprofit organization are not exclusive, each person, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person who could not qualify as a person under 37 CFR 1.27(a)(1), or by any concern which would not qualify as a small business concern under 37 CFR 1.27(a)(2), or a nonprofit organization under 37 CFR 1.27(a)(3).

Name **NATIONAL JEWISH MEDICAL AND RESEARCH CENTER**Address **1400 Jackson Street, Denver, Colorado 80206**☐ Person ☐ Small Business Concern ☒ Nonprofit OrganizationName **AEOLUS PHARMACEUTICALS, INC.**Address **P.O. Box 14287, Research Triangle Park, NC 27709**☐ Person ☒ Small Business Concern ☐ Nonprofit Organization

\*Separate verified statement is requested from each person, concern or organization named immediately above having rights to the invention, averring to his/her/its status as a small entity. (37 CFR 1.27)

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.27(g)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INDIVIDUAL SIGNING **Robert L. Taber**TITLE IN ORGANIZATION **Vice Chancellor of Science and Technology Development**ADDRESS OF INDIVIDUAL SIGNING **2020 W. Main St. Suite 10**

SIGNATURE

DATE **August 27, 2003**



Applicant or Patentee: **CRAPO et al**Serial or Patent No.: **10/051,367**Filed or Issued: **January 22, 2002**For: **CANCER THERAPY** Attorney's Dkt. No. **2661-22****VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS [37 19(f) and 1.27(c)] - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☐ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN **AEOLUS PHARMACEUTICALS, INC.**ADDRESS OF CONCERN **P.O. Box 14287, Research Triangle Park, NC 27709**

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled:

**CANCER THERAPY**by inventors **CRAPO et al** described in☐ the specification filed herewith.☒ application Serial No. **10/051,367**, filed **January 22, 2002**☐ patent No. \_\_\_\_\_, issued \_\_\_\_\_

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities (37 CFR 1.27)

Name **DUKE UNIVERSITY**Address **Durham, North Carolina 27708-0083**

☐ Individual ☐ Small Business Concern ☒ Nonprofit Organization

Name **NATIONAL JEWISH MEDICAL AND RESEARCH CENTER**Address **1400 Jackson Street, Denver, Colorado 80206**

☐ Individual ☐ Small Business Concern ☒ Nonprofit Organization

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28(b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING

TITLE OF PERSON OTHER THAN OWNER

ADDRESS OF PERSON SIGNING

SIGNATURE

*Clayton I. Duncan* **Clayton I. Duncan**  
**President & CEO, Aeolus Pharmaceuticals**  
**P.O. Box 14287, RTP, NC 27709**

DATE